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In re Application of :
Dae-Gunn Jei : DECISION GRANTING PETITION
Application No. 10/731,126 : TO RESET PERIOD FOR REPLY
Filed: December 10, 2003 :
For: **MULTI-PURPOSE HYBRID** :
TERMINAL AND METHOD FOR :
PREPARING FAST IMPLEMENTATION :
OF FUNCTI :

This is a decision on the petition filed on August 19, 2005, requesting that the shortened statutory period for reply set forth in the Office communication mailed on August 11, 2005 be reset and restarted.

Petitioner states that the non-final Office action relied upon a reference, "Barnes, Jr., Pub. No. US 20050136949" but that the Barnes, Jr. reference was not listed on either an 892 by the examiner or form PTO-1449 submitted by applicant.

MPEP §710.06 [R-2] Situations When Reply Period Is Reset or Restarted, states in part:

Where the citation of a reference is incorrect or an Office action contains some other defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

37 C.F.R. § 1.104 Nature of examination, states in part:

(a) Examiner's action ...

(2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be

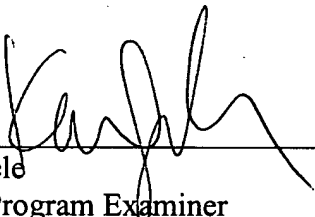
useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution. [emphasis added]

Although current Office practice is not to provide copies of U.S. Patents or U.S. Publications with Office communications, and even though examiner did indicate the Pub. No. of the Barnes, Jr. reference that was being relied upon in the Office action, the examiner did not list the Barnes, Jr. reference on the citation of art (i.e., form PTO-892) which accompanied the action. Therefore, the Office action mailed August 11, 2005 was deficient.

Accordingly, the petition is **GRANTED**.

Given that the error was brought to the attention of the Office within 1 month of the mail date of the action, in accordance with MPEP §710.06, the time period will be reset and restarted with the re-mailing of the Office action.

The application record will be forwarded to the examiner to complete a supplemental Notice of References Cited, specifically listing the Barnes, Jr. reference. From there, the application will be forwarded to the Technology Center's technical support staff for remailing the Office action with the supplemental Notice of References Cited prepared by the examiner.



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